IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4041 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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B D PATEL & 10 - Petitioner(s)

Versus

STATE OF GUJARAT & 11 - Respondent(s)

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Appearance :

MRS KETTY A MEHTA for Petitioner(s) : 1 - 11.

MR L B DABHI, Ld.AGP for Respondent(s) : 1 - 2.

RULE NOT RECD BACK for Respondent(s) : 3 - 12.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 25/01/2006

ORAL JUDGMENT

1. The petitioners in all 11 persons have filed this petition under Article 226 of the Constitution of India praying for direction to the respondent nos. 1 and 2 not to revert the petitioners from the posts of Deputy Mamlatdars while retaining the respondent nos. 3 to 10 in the posts of Deputy Mamlatdar and also praying for further direction to the respondent nos.1 and 2 to effect reversion in accordance with the principles of last-cum-first-go, if the posts of Deputy Mamlatdars are reduced in the office of Collector, Mehsana. Petitioners have also sought for the declaration from this court that the respondent nos. 3 to 10 are juniors to the petitioners in the posts of Deputy Mamlatdars in the office of the Collector, Mehsana and that they would not be retained in the office of the Deputy Mamlatdar while reverting the petitioners. Petitioners have also prayed for declaration that Rule 5 (Proviso) of the Gujarat Lower Revenue Qualifying Examination Rules 1978 is violative of Articles 14 and 16 of the Constitution of India.

2. Petition was admitted and rule was issued on 25.06.1991. The Court has granted ad-interim relief to the effect that status quo regarding petitioners service conditions as on that day, would continue.

3. Ms.Ketty A.Mehta, learned advocate appearing for the petitioner has submitted that issues raised in the present petition is squarely covered by the decision of this Court in the case of R.K.Prajapati and Ors. Vs. State of Gujarat and Ors. reported in Vol.33 (2) GLR 1422 wherein, in the last para, the court has observed that:

> " However, before parting with this judgment, it must be held that the concerned Collectors shall have first to decide whether SC/ST category of employees who are not reverted and who are retained in promotional posts fall within the permissible reservation percentage or quota of promotional posts which survive after reduction of posts or whether they exceed the quota and if they exceed such percentage of quota then the excess number of SC/ST employees who are junior most SC/ST employees will have to be reverted along with general category promotees according to their inter se seniority. Accordingly, reversion may

be effected of the concerned employees whether belonging to general category or SC/ST in the concerned Collectorates. If the impugned reversion orders meet this test, then they can be implemented. If not, fresh appropriate reversion orders may be passed if required, keeping in view the observations and directions contained in this judgment."

4. Ms. Mehta therefore submitted that similar directions be issued in this matter.

5. Mr.L.B.Dabhi, learned Assistant Government Pleader appearing for the respondent has produced a letter dated 21st December, 2005 written by Collector, Mehsana wherein it is stated that applicants shown at serial nos. 1 and 3 have retired, whereas applicant shown at serial no.5 has expired. One of the petitioners shown at sr.no.9 B.S.Prajapati was suspended and rest of the petitioners are still working as Deputy Mamlatdar and no reversion order was effected in their cases. It is further stated in the said letter that the question of reverting these petitioners from the post of Deputy Mamlatdar does not arise. It is also

stated that seniority list was prepared as on 01.01.1997 and promotion was given to the person at sr.no.214 whereas all the present petitioners are much ahead of other candidates shown in the seniority list. It is further stated that since the petitioners are not going to be reverted as stated in the said letter, no grievance now remains in this petition.

6. After having considered the submissions made on behalf of the respective parties and after having considered letter dated 21st December, 2005 the Court is of the view that the grievance raised by the present petitioners in this petition, is already redressed and hence, there is no question of any reversion order being passed now. Keeping in mind, the observations which are made in the aforesaid judgment of this court as there is no reversion there is no question of any dispute or grievance which may remain in the present petition. In this view of the matter, the petition is disposed of. Rule is made absolute to the aforesaid extent without any order as to costs.

(K.A.PUJ, J.)

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